

CITY OF MELBOURNE, FLORIDA  
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL  
FEBRUARY 22, 2005



A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 6:30 p.m. by Mayor Harry Goode.

1. Reverend John Denmark, First United Methodist Church, gave the invocation.
2. Pledge of Allegiance
3. Roll Call.

Present:	Harry C. Goode, Jr.	Mayor
	Richard Contreras	Vice Mayor, District 1
	Mark LaRusso	Council Member, District 2
	Kathy Meehan	Council Member, District 3
	Grace Walker	Council Member, District 4
	Cheryl Palmer	Council Member, District 5
	Loretta Isenberg-Hand	Council Member, District 6
	Jack M. Schluckebier, Ph.D.	City Manager
	Paul R. Gougelman, III	City Attorney
	Cathleen A. Wysor	City Clerk
	Cindy Dittmer	Planning & Economic Development Director

4. Proclamations and Presentations

Mayor Goode presented the proclamation, “Irish American Heritage Month”, March 2005, to former Mayor John Buckley, Ancient Order of Hibernians.

The Mayor presented a certificate to Mark LaRusso from the Institute of Government, Florida State University, for completion/attendance at the Institute for Elected Municipal Officials.

5. Approval of Minutes - February 8, 2005 Regular Meeting

Moved by Hand/Contreras for approval. Motion carried unanimously.

6. City Manager’s Report

City Manager Jack Schluckebier reported on the following items:

- The developer for the Riverwalk project is scheduled to appear before the Code Enforcement Board on February 23 due to the illegal removal of trees/vegetation along the Eau Gallie River. Based on staff’s recommendation, and subject to Code Enforcement Board action, the applicant faces fines in excess of \$100,000.
- The City received a letter from State Representative Mitch Needelman commending City Attorney Paul Gougelman and Planning & Economic Development Director Cindy Dittmer for their recent efforts during a meeting with the Department of Community

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Affairs regarding a proposed land use change. Because of their efforts, the issues were resolved and the City received a favorable report from DCA.

- The City received a letter from Representative Needelman indicating that the City will be awarded a grant of \$75,000 from the St. Johns River Water Management District for the Grant Street/D. B. Lee Reclaimed Water Interconnect project. Representative Needelman has taken a high interest in finding funds to clean up the Indian River Lagoon and its creeks and tributaries.
- The City received a favorable report from the State of Florida, Department of Health, Emergency Medical Service on our Advanced Life Support program.

In response to Council Member Kathy Meehan, the City Manager confirmed that City Council will make the final decision at a future meeting on determining the per space rate for the Downtown Parking Trust Fund. Staff's recommendation will be to increase the rate from \$2,500 per space to \$12,000 per space.

A brief discussion followed regarding staff's recommendation to conduct the public hearing on the renaming of Apollo Boulevard to Dr. Martin Luther King, Jr. Boulevard as a special meeting. By consensus, Council selected April 14, 2005 (6:30 p.m.) as the special meeting/public hearing date. There were no objections to Council Member Mark LaRusso's request that a personal invitation be extended to the Mayor of Palm Bay to attend this meeting.

7. Public Comments

(Note: The American Civil Liberties Union (ACLU) of Florida asked that the Police Department modify its policy of videotaping demonstrations. The Police Chief reviewed the request and agreed to the proposed modification. This was the result of the Police Department's surveillance of an anti-inaugural protest that occurred on the front lawn of City Hall on January 20.)

Police Chief Don Carey reported that shortly before the January 20 demonstration in front of City Hall, the Police Department received a call from the Sheriff's Office advising that there would possibly be other activity occurring. Prior to his appointment as Police Chief the previous administration issued instructions on how to handle anti-war protests. That policy was not included with the general orders; therefore, he was not aware that it called for videotaping of such protests.

Continuing, Chief Carey said that when he called for the protest to be monitored, the police staff followed the policy and videotaped. In response to a request from the ACLU, the Chief said he met with representatives today. He added that yesterday he issued a memo outlining the following: "The videotaping and constant monitoring of public demonstrations by members of the Melbourne Police Department will only occur upon the threat of criminal activity by persons involved in or counter to the public demonstrations. Effective immediately, any videotaping of public demonstrations may only be authorized by the Chief

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of Police or his designee. Monitoring of such demonstrations by uniformed officers will be randomly performed by patrol sector units to insure that participants in the demonstration have an opportunity to exercise their First Amendment rights. Should any question arise as to the staffing requirements at a particular demonstration or protest, higher supervisory authority should be consulted.”

Council Member Cheryl Palmer asked the Chief how he will know what constitutes a threat of violence. Chief Carey said he would have to rely on previous, well-founded intelligence and random monitoring by officers working the area.

Mayor Goode asked Council if they had any objections to the City adopting this policy. There were no objections/comments.

Kevin Aplin, Vice President, ACLU of Brevard, recommended that the new policy be slightly modified to provide that the Police Department should “refrain from videotaping demonstrations absent specific information leading to a credible belief that unlawful activity is imminent or is actually occurring and from any other activities that, generally, create a law enforcement presence that discourages participation in peaceful activities protected by the First Amendment of the U. S. Constitution.”

Mayor Goode recommended that, since there is a slight separation of agreement on the wording of the policy, Mr. Aplin, Mr. Pinfield, the Police Chief and the City Manager work to resolve this. He added that this is a whole different United States since the September 11 terrorist attacks.

Glenn Pinfield, President, ACLU of Brevard, recommended that police officers receive regular training to sensitize them to First Amendment issues.

Dr. Joan Joesting, 415 Rutgers Avenue, reported that she participated in the Tiger Dash run on February 19 and police officers stood by while a vehicle intentionally swerved and tried to hit her. She said that she wants police protection while she is jogging, not while she is participating in a demonstration.

John Mutschler, 4565 Grand Meadows Boulevard, said he was offended at the last Council meeting when suspicion was cast on the residents of Bay Meadows after an applicant’s tire had been slashed at a Planning & Zoning Board meeting. Mr. Mutschler said that the tire could have been slashed during the developer’s travel to/from Orlando or at a construction site.

Norma Coffin, 1417 Lime Drive, submitted before and after photographs of the river behind her home – with weeds and without weeds. She said that the area is full of aquatic weeds and the person who is supposed to be chemically treating the water is not doing his job.

Elizabeth Kostas, 248 Berkshire Lane, Melbourne, stated that during the demonstration on January 20 she observed a small, peaceful group protesting the inauguration of President Bush. She added that she has no criminal record and she is concerned that her face is now

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on file at the Police Department (by virtue of being videotaped). She asked what will be done with the video.

Chief Carey said currently there are only two copies – the original and the one the ACLU obtained as part of a public records request. He added that the Police Department plans to tape over its copy.

A few minutes later, Mr. Aplin said he will ask the ACLU in Miami what they wish to do with its copy of the videotape.

Eric Ellebracht, 1948 Tyler Avenue, Melbourne, asked the point of videotaping a demonstration.

Jeff Nall, P. O. Box 121036, said he organized the counter-inauguration demonstration at City Hall. He referenced the number of anti-war rallies and demonstrations that have occurred at City Hall over the past two years – all without violence. He thanked the Police Chief for adjusting the policy on videotaping demonstrations.

Pat Poole, 805 E. Palmetto Avenue, said that she doesn't know how anyone can complain about police surveillance. She added that the police are here for our protection.

Walter Connery, Dixie Highway, Palm Bay, commended the Police Chief for reformulating the policy. He added that videotape is helpful during a post review of any event. What starts out as an ordinary, peaceful demonstration can change rapidly if people don't like what the demonstrators are demonstrating about. Mr. Connery stressed that the Police Chief has to be given the latitude as to when there are sufficient grounds to film an event. He added that filming also deters bad police behavior/activity.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2005-07 (ED-2005-001) CONFLUENT SYSTEMS, INC.: (Second Reading/Public Hearing) An ordinance granting an Ad Valorem Tax Exemption for a period of four years totaling an estimated \$56,952. (Owner/Applicant - Confluent Systems, Inc.) (First Reading - 2/08/05)

City Attorney Paul Gougelman read the ordinance by title. There were no comments from the public.

Moved by Contreras/Meehan for approval of Ordinance No. 2005-07. The roll call vote was:

Aye: LaRusso, Meehan, Walker, Palmer, Hand, Contreras and Goode

Nay: None

Motion carried unanimously.

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NEW BUSINESS

9. COUNCIL ACTION RE: Contract award for Fee Avenue waterline replacement at the Florida East Coast Railroad, Project No. C04310, Southeast Enviroscope, Inc., Oviedo, FL - \$128,000.

City Engineer Howard Ralls reviewed the agenda report. The recommendation is to approve the construction contract with Southeast Enviroscope, Inc. in the amount of \$128,000.

Moved by Walker/Palmer for approval of the recommendation. Motion carried unanimously.

10. COUNCIL ACTION RE: Contract award for surveying and clearing of a 36-inch water transmission line easement, Project No. 04301, Development and Communication Group of Florida, Inc., Miami, FL - \$66,900.

Mr. Ralls briefed Council. The recommendation is for approval of the clearing contract with Development & Communication Group of Florida, Inc. in the amount of \$66,900.

Moved by Hand/Meehan for approval of the recommendation. Motion carried unanimously.

11. CONSENT AGENDA:

Moved by Meehan/LaRusso for approval of the consent agenda, Items “a – m.” Motion carried unanimously.

Moved by Contreras/Goode to convene as the Community Redevelopment Agency. Motion carried unanimously.

Moved by Contreras/Walker for approval of Item “n.” Motion carried unanimously.

Moved by Palmer/Walker to reconvene as the City Council. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Contract award to piggy-back with City of Tampa on Contract 7-04 for renovation of manholes on Country Club Road, Project No. 04315, Dallas1 Construction & Development, Inc., Thonotosassa, FL - \$30,905; and reconditioning of lift station wet wells, Project No. 05324, Dallas1 Construction & Development, Inc., Thonotosassa, FL - \$45,935.20; and transfer of \$5,935.20 from Miscellaneous Water & Sewer Projects into this project budget.

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- b. Supplement No. 233 to the Continuing Consultant's Contract for engineering services for improvements at Pineapple Park Pier, Project No. 104108, Frazier Engineering, Inc., Melbourne, FL - \$22,100.
- c. Supplement No. 236 to the Continuing Consultant's Contract for engineering services for a protective seawall at Front Street Park, Project No. 105122, Frazier Engineering, Inc., Melbourne, FL - \$13,900; and transfer of \$13,900 from Miscellaneous General Projects into this project budget.
- d. Supplement No. 232 to the Continuing Consultant's Contract for engineering services for John Rodes Boulevard force main analysis, Project No. 05343, Frazier Engineering, Inc., Melbourne, FL - \$9,500; and transfer of \$9,500 from Miscellaneous Water & Sewer Projects into this project budget.
- e. Approval to establish a capital improvement project for Lift Station 43 in the amount of \$48,250; approval of Supplement No. 237 to the Continuing Consultant's Contract for engineering services for replacement of Lift Station 43 at Front Street, Project No. C05342, Frazier Engineering, Inc., Melbourne, FL - \$48,250; and transfer of \$48,250 from Water & Sewer Contingency into this project budget.
- f. Approval for the City to enter into an agreement with Eastwood Park Investment, Inc. to pay \$35,000 toward the construction of the Palmwood regional lift station and authorization for the City Manager to execute the agreement.
- g. Approval of an agreement between Brevard County and the City of Melbourne for Emergency Medical Services Assessment funding to Melbourne area Primary First Responder Agencies.
- h. Contract award for lockbox services and authorization for the City Manager to negotiate and execute a contract.
- i. Purchase of training and service ammunition for Police Department firearms training, Gulf States Distributor, Inc., Montgomery, AL - \$15,606.
- j. Purchase of 888 dry tons of ferric sulfate for Water Production, Kemirom Companies, Inc., Bartow, FL - \$199/dry ton, for a total estimated cost of \$176,712.
- k. Contract award for resurfacing of four hard surface tennis courts and one set net post replacement, Lancelot Tennis, Inc., Port St. Lucie, FL - \$14,390; and resurfacing of two clay courts, Fast Dry Courts, Inc., Pompano Beach, FL - \$12,000.
- l. Purchase of a Model SM2 advanced water recycling system for Fleet Management, RFG Environmental Group, Inc., West Palm Beach, FL - \$13,562.50.

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- m. Resolution No. 1922: A resolution authorizing the City Manager to submit a grant application in the amount of \$32,916 to the State of Florida Victims of Crime Act Program for an 80:20 matching grant for the Domestic Violence Program.
- n. Approval of the professional service agreement between the Melbourne Downtown Community Redevelopment Agency and Strategic Planning Group, Inc. for update of the Master Redevelopment Plan for the Downtown Melbourne Community Redevelopment area - \$80,840.

12. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

13. COUNCIL ACTION RE: (Public Hearing) Preliminary approval of proposed activities for Federal FY 2005 HOME Investment Partnership funds and authorization for their inclusion in the Brevard County HOME Consortium Action Plan for 2005-2006.

From the agenda report: The Citizens' Advisory Board reviewed 2005-2006 HOME funding requests during its regular meeting on February 7, 2005 and approved the following staff recommendations as proposed:

Owner-occupied Housing Rehabilitation Program	\$142,464
Tenant Based Rental Assistance Program	10,000
Rental Housing	50,000
CHDO Set-Aside (15%)*	**40,493
Administration (10%)*	<u>26,995</u>
TOTAL:	<b>\$269,952</b>

*\*Minimum Community Housing Development Organization (CHDO) and maximum administrative set-asides are prescribed by statute.*

*\*\*Note: The agenda backup material indicated \$49,493; however, \$40,493 is the correct figure. The total is correct.*

The recommendation is for preliminary approval of the proposed activities for federal FY 2005 HOME funds and authorization for their inclusion in the Brevard County HOME Consortium Action Plan for 2005-2006.

The City Manager noted that Housing and Community Development Director Melinda Thomas is available for questions. There were no questions from Council and no comments from the public.

Moved by Palmer/LaRusso for approval of the recommendation. Motion carried unanimously.

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14. COUNCIL ACTION RE: (Public Hearing) Preliminary approval of proposed list of projects and activities for inclusion in the 2005-2006 proposed CDBG Action Plan and authorization to advertise the Action Plan for public comment upon completion.

From the agenda report: The Citizens' Advisory Board made the following recommendations for funding:

**PUBLIC SERVICES**

<b>Child Care Association of Brevard County, Inc.</b>	
Subsidized child care for children from low-income households	\$23,000
<b>City of Melbourne Housing &amp; Community Development Department</b>	
Booker T. Washington Youth Initiative	16,000
<b>City of Melbourne Leisure Services</b>	
Scholarships for low-income youth to attend summer camp	12,684
<b>Club Esteem</b>	
After-school program	11,000
<b>Coalition for the Hungry and Homeless of Brevard, Inc.– WIN Program</b>	
Transitional housing and supportive services	9,000
<b>PREVENT! of Brevard, Inc.</b>	
Transitional housing and supportive services/Sally's House	14,500
<b>The Salvation Army, Inc.</b>	
Emergency shelter service	<u>10,000</u>
<b>Subtotal Public Services:</b>	<b>\$96,184</b>

**PUBLIC FACILITIES & IMPROVEMENTS**

<b>Booker T. Washington Revitalization Project, Phase V</b>	
Installation of additional street lights	\$ 75,000
<b>Brevard Neighborhood Development Coalition</b>	
Construction of BNDC Outreach Center on Masterson Street	50,000
<b>Lipscomb Park Improvements, Phase I</b>	
Construction of Phase I of Master Site Plan Improvements	<u>151,802</u>
<b>Subtotal Public Facilities &amp; Improvements:</b>	<b>\$276,802</b>

**ADMINISTRATION**

<b>Program Administration</b>	
General program administration	\$125,746
<b>Fair Housing</b>	
Fair housing activities	<u>2,500</u>
<b>Subtotal Administration:</b>	<b>\$128,246</b>

**OTHER**

<b>Code Enforcement</b>	
Comprehensive proactive code enforcement in North & South CDBG Target Areas	\$ 75,000
<b>Demolition &amp; Clearance Program</b>	13,000

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Demolition & clearance activities for North & South CDBG Target Areas

**Habitat for Humanity of South Brevard, Inc.**

Vacant apartment demolition (Kennedy Street) 21,000

**Housing Services**

Activity-delivery for HOME-funded Tenant Based Rental Assistance Program 12,000

**Space Coast Center for Independent Living**

Handicap accessibility program 19,000

**Subtotal Other:** 140,000  
**GRAND TOTAL:** \$641,232

The recommendation is for preliminary Council approval of the proposed list of projects and activities for inclusion in the 2005-2006 proposed CDBG Action Plan and permission to advertise the Action Plan for public comment upon completion.

Mayor Goode opened the public hearing.

Paul Halpern, representing Club Esteem, distributed information on the statistics, weekly schedule, etc. He invited Council Members to visit their operation and thanked Council for its support.

Alfreda Walker, President, Booker T. Washington Neighborhood Association, thanked Council for designating funds for the neighborhood. She stated that the goals of the Association are to reclaim, restructure and revitalize the community using education, spirituality and morality. And, with Council's support, that is coming to life.

Larry Fowler, Space Coast Center for Independent Living, thanked the City Council for its funding over the past two years. He noted that they are a non-profit community based organization that provides individuals with various disabilities of all ages services to live independently. He elaborated on their services and programs and stated that this is a win/win program.

Lynn Brockwell-Carey, Brevard Neighborhood Development Coalition, stated that their agency is a faith based community development organization and for the last four years they have been working in the Booker T. Washington neighborhood in partnership with the City and Habitat for Humanity to bring about redevelopment. The project on this agenda will provide gap financing for an outreach center for children. She distributed information on their program and thanked Council for its support.

Eddie Taylor, representing the Lipscomb Street Park Association, commended the City Council for its support and added that he is involved to ensure that the park looks its best all the time.

Carmelita Arandia, Child Care Association of Brevard, thanked Council on behalf of the 200-plus children in their program for continued support. She stated that the funds enable them to provide quality, comprehensive care to low-income families.

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Joe Gassman, President/CEO of Habitat for Humanity, thanked Council for providing housing/homeownership opportunities for low income families. He elaborated on how the funding will be used for this project.

That concluded comments from the public.

Moved by Hand/Walker for approval of the recommendation. Motion carried unanimously.

15. COUNCIL ACTION RE: (Public Hearing) Approval of the Lipscomb Park Master Site Plan, amendments to the 2000-2001 and 2003-2004 CDBG Action Plans, and reallocation of \$128,276 in budgeted funds to the newly defined Lipscomb Park Improvement Project.

From the agenda report: The recommendation is for approval of the Lipscomb Park Master Site Plan amendments to the 2000-2001 and 2003-2004 CDBG Action Plans as proposed and reallocation of \$128,276 in budgeted funds to the newly defined Lipscomb Park Improvement Project with a scope that includes the elements covered in Phase I of the Master Site Plan.

Mayor Goode opened the public hearing.

Eddie Taylor, representing Lipscomb Park Association, thanked Council.

Moved by Contreras/Meehan for approval of the recommendation. Motion carried unanimously.

16. COUNCIL ACTION RE: Request for an off-premise directional sign to be placed on property located at 610 Young Street. (Requested by the St. Johns Episcopal Church)

(Note: The church is located on Young Street; however, the sign will be placed on private property located at 1209 North Harbor City Boulevard.)

Herb Sands, applicant/representative, was present and asked for Council's support.

Paul Burlison, 2914 Bayeux Avenue, said that in August 1966 his family pulled into the Harbor House restaurant in Melbourne. They saw the sign for the Episcopal Church, attended and knew that they had found their new home. He asked Council to approve this item so another family will be able to enjoy the beauty of Melbourne.

Moved by Walker/Palmer for approval of the off-premise directional sign as recommended. Motion carried unanimously.

17. SITE PLAN APPROVAL (SP-2004-31) PALMS 8 BUSINESS COMPLEX: (Public Hearing) A request for site plan approval to develop an office condominium project on a 10.28-acre parcel, zoned C-2 (General Commercial), located on the west side of North Babcock Street, south of Laurie Street, and north of Alma Drive. (Owner - City of

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Melbourne) (Applicant - Baskerville-Donovan, Inc.) (Representative - David F. Silvey, P.E.) (P&Z Board - 02/03/05)

Mrs. Dittmer briefed Council. The Planning and Zoning Board unanimously recommended approval of SP-2004-31, depicted on a one-page site plan prepared by Baskerville Donovan, Inc. dated 1/21/05, subject to the following conditions:

- a. Any change to the site plan will require reevaluation by the Engineering Department and Planning and Economic Development Department.

Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: 1) a decrease of five percent of the open space or vegetative areas on site; 2) an increase of more than ten percent building square footage; or 3) the addition of a driveway.

- b. The buildings shall be substantially consistent with the rendering submitted by the applicant.
- c. The applicant shall provide enhanced landscaping adjacent to both rights-of-way, consistent with the recommendation by the Babcock Street Community Redevelopment Agency Advisory Committee.
- d. The project must receive Architectural Review Board approval prior to construction plan approval.
- e. The applicant shall provide a six-foot opaque masonry wall along the west and south lines, adjacent to residential.
- f. A tree survey shall be provided during construction plan review to assist with the preservation of hardwood trees along the southern edge of the property.

In response to Mrs. Palmer, Mr. Gougelman explained that this is the last step prior to closing on the property. The contract is contingent on zoning and the site plan. He added that the City is still the owner of the property.

Mr. Schluckebier clarified that although the City is the owner, it is not the applicant. The City has not expended tax dollars or given undue review or consideration to this plan. Mr. Clark's firm has indicated to the City Attorney that they plan to close in mid March. Additionally, they understand that the contract covers interest on the property.

David Silvey, representing the applicant, was present and available for questions.

There were no disclosures by Council and no comments from the public.

Moved by Hand/LaRusso for approval as recommended. Motion carried unanimously.

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18. SITE PLAN APPROVAL EXTENSION (SP-2003-25EXT) UNIVERSITY VILLAGE AT MELBOURNE: (Public Hearing) A request for a one-year extension of site plan approval to develop a 10.4-acre parcel, zoned C-1 (Neighborhood Commercial) for multi-family use, located on the south side of Florida Avenue, west of Babcock Street, and east of Dairy Road. (Owner - University Village at Melbourne, LLC) (Applicant/Representative - Guy Poux) (P&Z Board - 02/03/05)

There were no disclosures by Council. Mrs. Dittmer reviewed the agenda report. The Planning and Zoning Board unanimously recommended approval of the project comprising of a one-sheet plan prepared by Honeycutt & Associates, Inc., of Titusville, Florida, Project Number 1266, Job Number 21944, dated 06-27-03, with a stamped and sealed date of 12/10/04, subject to the following conditions:

- a. Any change to the site plan will require reevaluation of the site plan by the City Engineering Department and Planning and Economic Development Department.

Any substantial change to the site plan will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: 1) a decrease of five percent of the open space or vegetative areas on site; 2) an increase of five percent or more in the building size or number of parking spaces; or 3) any increase in the number of units.

- b. Should any threatened or endangered species be found on the site prior to or after commencement of construction, all construction shall be suspended until adequate permits are acquired or appropriate jurisdictional agencies provide approval to proceed with development.
- c. The applicant/developer shall take measures necessary to save as much natural native vegetation as possible. Buildings, retention, and parking spaces shall be placed in locations to permit for the maximum preservation of trees and other native vegetation, when possible.
- \*d. Stormwater outfall shall be directed to Florida Avenue.
- e. Provide acceleration, deceleration, and a center turn lane onto Florida Avenue as required by the Engineering Department.
- f. Building design shall be substantially consistent with the renderings submitted by the applicant.

\*Additionally, staff recommends the elimination of "d" because stormwater from the site will outfall to the south, into the Southwest drainage canal system.

Mayor Goode opened the public hearing.

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Guy Poux, representing the applicant, reported that another underwriter bought out their underwriter; therefore, they had to begin the process again. They are proceeding with their financing, have submitted completed construction documents to the City, have revised their plans per City comments, and are ready to re-submit to the City. He added that they have addressed all comments from St. Johns River Water Management District. He asked Council for its support in the extension.

Moved by Contreras/Walker for approval of the recommendation. Motion carried unanimously.

19. COUNCIL ACTION RE: Discussion of open container as it relates to special activity permits/street events. (Requested by Council 11/23/2004)

From the agenda report: At the November 23, 2004 meeting, Council directed staff to work with the Downtown merchants and Melbourne Main Street towards a compromise on street events with regard to open container. The Downtown Redevelopment Committee and the Melbourne Main Street expressed support for open container ending at 12:30 a.m. Most people who attended the public meeting to receive input from the Downtown merchants spoke in favor of open container ending at 12:30 a.m.

In addressing security issues, the Police Chief has noted that the later an event, which involves alcohol, is conducted, the greater the tendency for unruly behavior.

The staff recommendation is for open container to end at 11:30 p.m. with the streets cleared by midnight. Applicants wishing to have open container beyond 11:30 p.m. should be required to submit a request in the form of an agenda item to Council, in a timely fashion, at least two months before the scheduled event.

The City Manager briefed Council. He noted that the three groups – Downtown Redevelopment Committee, Melbourne Main Street and the Downtown merchants – recommended a loosening of the current policy. He stressed that this is purely a matter for Council policy direction.

Mayor Goode complimented staff on addressing this issue. He agreed that there have been bad events in the past; however, during the most recent event (New Year's Eve Shamrock Drop) Meg O'Malley's did a good job. The Mayor added that we want to see people come to the Downtown area, but we also want them to treat it like it was their own neighborhood.

Scott Marathas, owner, Meg O'Malley's, stated that the events in Downtown Melbourne are vital to the success of his business and to the overall goal of making Downtown Melbourne a destination. He added that although every business does not benefit during an event, people do return to shop because of what they saw during a street event.

Mr. Marathas said that the City's special events process is exhausting and they try to comply with everything the right way. However, there are unruly customers every now and

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then. He added that they try to address any damage to property.

In response to the Mayor, Mr. Marathas elaborated on the cost involved in putting on a street event. He said that the New Year's Eve event came with a price tag of over \$50,000, including law enforcement cost, clean up, security, fencing, portable toilets, dumpsters, advertising, entertainment, etc.

Mayor Goode asked Mr. Marathas if he was comfortable with the recommendation. Mr. Marathas said he would like to see events go until 12:30 a.m. Following a brief discussion, Mr. Marathas elaborated on his upcoming St. Patrick's Day event, which will be held in the parking lot behind his business.

Mrs. Palmer questioned whether the 11:30 cut-off would pose a problem for an applicant that would like to sponsor a street event. She pointed out that the parties involved recommended 12:30 a.m. Mrs. Palmer said that she would like to support open container ending at midnight, especially since peak sales are between 10:00 p.m. and 12:00 a.m. And, she noted that the merchants – the ones most affected by this decision – have expressed support for 12:30 a.m.

Moved by Contreras/Palmer to approve open container ending at 12:00 a.m. with the streets cleared by 12:30 a.m. Applicants wishing to have open container beyond 12:00 a.m. will be required to submit a request in the form of an agenda item to Council, in a timely fashion, at least two months before the scheduled event.

Council Member Grace Walker asked if the streets can really be cleared within 30 minutes after alcohol sales are discontinued. Chief Carey replied that he personally observed during an event that once alcohol sales stopped, the streets cleared quickly.

A brief discussion followed with regard to gated events (where a fee is charged to enter the public streets) and the time an applicant may fence off an event area. The maker/seconded agreed to add to the motion that an applicant may not fence an area prior to 3:00 p.m. and may not begin charging a gate (fee) prior to 6:00 p.m.

The question was called on the motion (including the direction for fencing). Motion carried unanimously.

Recessed: 8:25 p.m.  
Reconvened: 8:33 p.m.

20. COUNCIL ACTION RE: Appointment of the fifth member to the General Employees' Pension Plan Board of Trustees.

Moved by Palmer/Meehan to confirm the appointment of Tina Casey as the fifth member to the General Employees' Pension Plan Board of Trustees. Motion carried unanimously.

21. COUNCIL ACTION RE: Salary adjustments for seasonal positions in the Leisure

CITY OF MELBOURNE, FLORIDA  
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Services Department.

The recommendation is for approval of the seasonal pay adjustments as outlined in the agenda package.

Moved by Hand/Walker for approval. Motion carried unanimously.

22. RESOLUTION NO. 1923: A resolution implementing FY 2004-2005 First Quarter Budget Review recommendations

Attorney Gougelman read Resolution No. 1923 by title.

Moved by Hand/Contreras for approval. The roll call vote was:

Aye: LaRusso, Meehan, Walker, Palmer, Hand, Contreras and Goode

Nay: None

Motion carried unanimously.

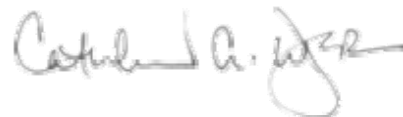
23. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

In response to Council Member Loretta Hand, Leisure Services Director Mary Ann Bowman reported on the schedule for improvements at Ballard Park and Pineapple Park.

The City Manager reported that the City received a wire transfer from FEMA in the amount of (\$533,460). He added that FEMA still owes the City in excess of \$3 million.

24. ADJOURNMENT

Moved by Contreras/LaRusso to adjourn. The meeting adjourned at 8:40 p.m.



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City Clerk – 3/1/2005

Approved by Council: March 8, 2005